

CITY OF SOLDOTNA
ORDINANCE 2022-013

AN ORDINANCE REPEALING AND REENACTING SOLDOTNA MUNICIPAL CODE (SMC) 1.08.080 – MINOR OFFENSE FINE SCHEDULE, AND AMENDING SECTIONS OF SMC TITLES 1, 8, 13, 15, AND 17 TO UPDATE DEFINITIONS AND STANDARDS FOR CERTAIN VIOLATIONS, FEES, AND ENFORCEMENT

WHEREAS, the Alaska Rules of Minor Offense Procedure provide for the just determination of municipal code violations and secure simplicity and uniformity in procedure, fairness in administration, and the elimination of unjustifiable expense and delay; and

WHEREAS, the minor offense adjudication process is most efficient and effective when fines for violations are set in a fine table, allowing resolution of citations without appearing in court; and

WHEREAS, amendment to the Soldotna Municipal Code (SMC) is necessary to enable efficient enforcement of a greater number of city offenses through the minor offense procedure;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SOLDOTNA, ALASKA:

Section 1. That SMC 1.08.030 - Violation—Penalty, paragraph B, is hereby amended as follows:

- B. In addition to any other remedies or penalties that may be provided in this code or under state law, the city or an aggrieved person may institute a civil action against a person who violates an ordinance, however, [ONLY THE CITY MAY IMPOSE] a fine or penalty against such person may be adjudged only in an action instituted by the city. The fine or penalty adjudged shall be equal to the minor offense fine for the violation. An action to enjoin a violation and for compensatory damages resulting therefrom may be brought notwithstanding the availability of any other remedy. On application for injunctive relief and a finding of a violation or a threatened violation, the superior court shall grant the injunction.

Section 2. That SMC 1.08.080 - Minor offense fine schedule, is hereby repealed and reenacted to read as follows:

1.08.080 Minor offense fine schedule.

In accordance with AS 29.25.070(a), citations for the following offenses may be disposed of as provided in AS 12.25.195-.230, without a court appearance, upon payment of the fine amounts listed below, or if no fine is listed below, a fine not to exceed \$500, plus the state surcharge required by AS 12.55.039 and AS 29.25.074. Fines must be paid to the court. The Alaska Court System's Rules of Minor Offense Procedure apply to all offenses listed below. If a person charged with one of these offenses appears in court and is found guilty, the penalty imposed for the offense may not exceed the fine schedule amount listed below for that offense. Citations charging these offenses must meet the requirements of the Rules of Minor Offense Procedure. The fine amounts listed below are doubled for motor vehicle or traffic offenses committed in a highway work zone or traffic safety corridor, as those terms are defined in AS 28.90.990 and 13 AAC 40.010(b). An offense listed in this schedule may not be disposed of without court appearance if the offense is in connection with a motor vehicle accident that results in the death of a person. The fines set forth below may not be judicially reduced.

Soldotna Municipal Code Reference	Offense	Fine
Chapter 6.04 - Animal Control		
6.04.020 A.	Failure to license dog	\$50
6.04.030 C.	Failure to display license	\$25
6.04.040 D.	Unlawful tying, staking, or confining of an animal	\$100
6.04.060 A.	Vicious dogs	\$100
6.04.070 A.	Animals at large	\$50
6.04.070 B.	Releasing animal belonging to another	\$50
6.04.070 C.	Abandonment of animal	\$50
6.04.080 A.	Allowing animal or bird to disturb neighborhood by prolonged barking or other noises	\$50
6.04.080 B.	Allowing animal or bird to dig upon or injure public property or the property of another	\$50
6.04.080 C.	Failure to clean up after animal	\$50
6.04.080 D.	Allowing animal to habitually menace, injure or frighten persons within the city	\$50
6.04.080 F.	Wolf hybrids prohibited	\$50
6.04.090	Other annoyances prohibited	\$100
6.04.100 B.	Failure to surrender animal for quarantine	\$100
6.04.100 E.	Unlawful killing or removal of rabid or suspected rabid animal	\$50
6.04.100 H.	Failure to surrender animal for destruction	\$100
6.04.110 A.	Immunization for Rabies	\$100
6.04.110 B.1	Failure to report bite - owner	\$50
6.04.110 B.2	Failure to report bite - victim	\$50
6.04.140 A.	Interference with officers	\$100
6.04.180 A.	Unlawful depositing of dead animals	\$100
6.04.180 B.	Failure to properly dispose of dead animal	\$100
6.04.180 C.	Transport of uncovered dead animal	\$100
6.04.190 A.	Failure to obtain commercial kennel licenses	\$100
Chapter 8.06 - Disposable Plastic Shopping Bags		
8.06.030	Distribution of single use, plastic disposable shopping bags	\$300
Chapter 8.20 - Regulation of Smoking in Eating Establishments		
8.20.040	No-smoking sign violation	\$100
8.20.050	Unlawful retaliation	\$500
8.20.060 A.	Smoking violation - operating establishment	\$100
8.20.060 B.	Smoking violation - smoking where unlawful	\$100
Chapter 8.30 - Marijuana Regulation		
8.30.040	Marijuana use in public	\$100
8.30.050	Marijuana use in or on motor vehicles	\$300
8.30.060	Allowing prohibited marijuana use	\$500
Chapter 9.04 - Public Nuisance		
9.04.020 A.	Public nuisance	\$500
9.04.030 A.	Garbage, junk and rubbish—disposal and storage	\$150
9.04.030 B.	Garbage cans, packing boxes and other material storage	\$150
9.04.030 C.	Failure to secure and contain garbage	\$100
9.04.040	Transportation—dumping	\$150
9.04.050	Unsightly premises	\$150
Chapter 9.05 - Discharge of firearms		

9.05.020	Discharge of firearms	\$500
Chapter 9.10 - Adult Businesses		
9.10.010 C.1	Adult business violation - temporary or portable structure	\$300
9.10.010 C.2	Adult business violation - failure to enclose dumpsters	\$300
9.10.010 C.3	Adult business violation - windows open or uncovered	\$300
9.10.010 C.4	Adult business violation - failure to screen interior at entry/exits	\$300
9.10.010 C.5	Adult business violation - failure to properly light exterior grounds	\$300
9.10.010 C.6	Adult business violation - violation of sign code	\$300
9.10.010 C.7	Adult business violation - failure to provide notice against entry by minors	\$300
9.10.010 C.8	Adult business violation - permitting unlawful viewing from outside the building	\$300
9.10.010 C.10	Adult business violation - operating hours violation	\$300
9.10.010 C.11	Adult business violation - broadcasting amplified sound outside building	\$300
9.10.010 C.12	Adult business violation - unlawful gratuity violation	\$300
9.10.010 C.13	Adult business violation - sexual conduct violation	\$300
9.10.010 C.14	Adult business violation - failure to provide separate dressing room	\$300
9.10.010 C.15	Adult business violation - failure to provide separate entrance/exit	\$300
9.10.010 C.16	Adult business violation - failure to provide lawful access between stage and dressing rooms	\$300
9.10.010 C.17	Adult business violation - failure to maintain open access to public areas	\$300
Chapter 9.15 – Dust Control for Sweeping Operations		
9.15.020 A.	Prohibited mechanical street sweeping	\$100
9.15.020 B.	Prohibited mechanical sweeping device	\$100
9.15.020 C.	Dust palliative use violation	\$100
9.15.020 D.	Use of leaf blowers for moving particulate matter	\$100
Chapter 9.20 - Miscellaneous Minor Offenses		
9.20.020	Theft of property/services less than \$250.00	\$250
9.20.030 A	Concealment of merchandise less than \$250.00	\$250
9.20.040	Mischief	\$250
9.20.050 A.	Trespass - premises	\$250
9.20.050 B.	Trespass - propelled vehicle	\$250
9.20.060	Disorderly conduct as a minor offense	\$250
9.20.070	Harassment as a minor offense	\$250
9.20.080	Drunken person on licensed premises	\$250
Chapter 10.05 – Off-Road Vehicles		
10.05.020	Unlawful operation of off-road vehicle	\$100
Chapter 12.12 - Driveways		
12.12.040	Failure to obtain a driveway permit	\$150
Chapter 12.16 – Excavations and Obstructions		
12.16.010	Unpermitted excavation and obstruction.	\$250
Chapter 12.28 - Public Parks		
12.28.020 A.	Disfiguring or removing park property	\$100
12.28.020 B.	Restroom and washroom violation	\$100
12.28.020 C.	Removal of natural resources	\$100
12.28.020 D.	Unlawful erection of structure or utilities	\$100

12.28.030 A.	Injury to park vegetation	\$100
12.28.030 B.	Climbing upon trees or monuments	\$50
12.28.040 A.	Injury to animals prohibited	\$100
12.28.040 B.	Feeding noxious substances to animals	\$100
12.28.060	Littering prohibited	\$50
12.28.100	Speeding within campgrounds	\$100
12.28.110 A.	Operating vehicle beyond established boundaries	\$100
12.28.110 B.	Operating vehicle on other than designated road or parking area	\$100
12.28.120	Abandonment of vehicle	\$100
12.28.130 A.	Parking outside designated area	\$25
12.28.130 B.	Full parking in road	\$25
12.28.130 C.	Failure to notify of breakdown	\$25
12.28.130 D.	Double parking	\$25
12.28.130 E.	Muffler violation	\$25
12.28.130 F.	Trailer parking within Centennial day use area	\$25
12.28.140 A.	Bicycle use on other than designated road or path	\$50
12.28.140 B.	Failure to observe road rules or regard for others' safety	\$50
12.28.140 C.	Immobile bike violation	\$25
12.28.170 C.	Fishing within the Centennial Boat Launch lagoon Prohibited	\$100
12.28.200 C.	Parking violations in campground	\$50
12.28.200 D.	Overnight camping violation	\$50
12.28.200 E.	Boat trailer parking violation	\$50
12.28.200 F.	Boat mooring violation	\$50
12.28.200 G.	Unlicensed ATV use in campground	\$50
12.28.200 I.	Fire unattended	\$100
12.28.210 A.	Use or discharge a weapon or similar devise in or into parks	\$100
12.28.210 B.	Use or possession of fireworks in park	\$100
12.28.220	Animal in campground violation	\$100
12.28.230	Failure to obey burning restrictions	\$100
12.28.240 A.	Failure to obey restricted areas	\$50
12.28.240 B.	Non-disabled persons fishing in designated disabled fishing areas prohibited	\$100
12.28.250	Loitering, boisterousness and disorderly conduct prohibited	\$50
12.28.260	Failure to obey noise control	\$50
12.28.270	Failure to exhibit permit	\$50
12.28.280	Unlawful interference with permittees	\$50
12.28.310	Camping and shelter permit required	\$50
12.28.370 D.	Failure to pay fees for use of park and campground facilities	\$50
Chapter 13.08 – Water System		
13.08.020 C.	Failure to obtain water connection permit	\$500
13.08.030 A.	Failure to obtain a permit for a private water system	\$500
13.08.030 C.	Illegal connection of a well to the city water system	\$500
13.08.060	Inspection violation	\$500
Chapter 13.10 – Water Service Line Installation		
13.10.100 A.	Unlawful water service modification	\$500
13.10.110 A.	Unauthorized use of control valves	\$500
13.10.110 B.	Unauthorized operation of fire hydrants	\$500
Chapter 13.12 – Sanitary Sewer Service		

13.12.030 A.	Failure to obtain sewer connection permit	\$500
13.12.080	Failure to connect to city sewer system	\$500
Chapter 13.14 – Unlawful Discharge into Sewer System		
13.14.020	Unlawful discharge of septic material	\$500
13.14.030	Unlawful discharge or disposal of non-domestic material	\$500
13.14.040	Discharge of prohibited substances	\$500
Chapter 13.18 – Sewer Service Line Installation		
13.18.100 A.	Failure to connect to sewer system	\$500
13.18.100 C.	Unlawful modification of sewer system	\$500
13.18.100 D.	Non-conforming sewer modification	\$500
13.18.100 F.	Contractor's unlawful use of fire hydrants or valve	\$500
Chapter 15.08 - Sign Code		
15.08.010 D.1.	Failure to obtain required sign permit	\$100
15.08.010 H.5.	Sign permit condition violated	\$100
15.08.030 C.	Prohibited sign violation	\$100
Chapter 17.10 - Zoning Code		
17.10.230 F.	Rural Residential Zoning Violation	\$250
17.10.235 F.	Single-Family Residential District Violation	\$250
17.10.240 F.	Single-Family/Two-Family Residential District Violation	\$250
17.10.245 F.	Knight Court Area Zoning Violation	\$250
17.10.250 F.	Multi-Family Residential District Zoning Violation	\$250
17.10.260 F.	Limited Commercial District Zoning Violation	\$500
17.10.265 G.	Commercial District Zoning Violation	\$500
17.10.270 F.	Parks and Recreational District Zoning Violation	\$250
17.10.275 F.	Institutional District Zoning Violation	\$250
17.10.280 F.	Industrial District Zoning Violation	\$500
17.10.285 K.	Kenai River Overlay District Zoning Violation	\$250
17.10.290 G.	Townhouse Development violation	\$250
17.10.295 I.	Unlawful Operation of marijuana establishment	\$500
17.10.305 G.	Violation of accessory use general standards	\$250
17.10.310 D.	Unlawful Garage Sale	\$50
17.10.315 F.	Unlawful home occupation use	\$100
17.10.365	Unlawful keeping of animals	\$100
17.10.380 H.1.	Operating a mobile vending unit without a permit	\$100
17.10.380 H.2.	Violating general standards for mobile vending units	\$75
17.10.380 H.3.	Non-conforming mobile vending	\$75
17.10.380 H.4.	Operating a mobile vending unit in a prohibited location	\$75
17.10.385 D.1.	Failure to obtain a short-term rental permit	\$250
17.10.385 D.2.	Violation of the general standards for short-term rental units	\$250
17.10.405 I.	Failure to obtain a temporary use permit	\$150
17.10.450 C.	Failure to abate violation following notice	\$500

Section 3. That SMC 8.20.060 - Violations and penalties, is hereby amended as follows:

8.20.060 - Violations [AND PENALTIES].

- A. It is unlawful for any person who operates any premises subject to regulation under this chapter to fail to prohibit smoking in any area where smoking is prohibited by [COMPLY WITH ANY PROVISIONS OF] this chapter.
- B. It is unlawful for any person to smoke in any area where smoking is prohibited by this chapter.

- [C. ANY PERSON WHO VIOLATES ANY PROVISION OF THIS CHAPTER SHALL BE GUILTY OF A MINOR OFFENSE PUNISHABLE AS PROVIDED IN CHAPTER 1.08 OF THE SOLDOTNA MUNICIPAL CODE.
- D. ANY PERSON AGGRIEVED BY A VIOLATION OR THREATENED VIOLATION OF THIS CHAPTER OR THE CITY MAY BRING A CIVIL ACTION AGAINST A PERSON WHO VIOLATES THIS CHAPTER AND MAY RECOVER A CIVIL PENALTY NOT TO EXCEED THREE HUNDRED DOLLARS PER VIOLATION. AN ACTION TO ENJOIN A VIOLATION MAY BE BROUGHT NOTWITHSTANDING THE AVAILABILITY OF ANY OTHER REMEDY.]

Section 4. That SMC 13.08.080 - Violations, is hereby amended as follows:

13.08.080 - Violations.

- [A.] The director of public works and utility manager shall have the authority to inspect any building or premises served by city water for any violation of relevant city or state law. The director and utility manager shall furthermore have the authority to turn off any water service when any such violation exists.
- [B. EVERY PERSON CONVICTED OF A VIOLATION OF THIS CHAPTER SHALL BE GUILTY OF A MISDEMEANOR, AND PENALTIES ASSESSED AS PRESCRIBED IN CHAPTER 1.08, GENERAL PENALTY, OF THE SOLDOTNA MUNICIPAL CODE.]

Section 5. That SMC 13.10.120 - Fees and fines, is hereby amended as follows:

13.10.120 - Fees [AND FINES].

The following fees are hereby established:

Permit fee	\$100 (includes initial inspection and one re-inspection)
After hours inspection fees	\$120 with two-hour call out plus \$60 per hour after initial two-hour call out
Re-inspection fee	\$120 with two-hour call out plus \$60 per hour after initial two-hour call out

[THE FOLLOWING FINES, PLUS ANY SURCHARGE REQUIRED TO BE IMPOSED BY AS 12.55.039, ARE HEREBY ESTABLISHED:

UNAUTHORIZED USE OF FIRE HYDRANT UP TO \$250 PER DAY PER EACH FIRE HYDRANT USE.

UNAUTHORIZED OPERATION OF WATER VALVES UP TO \$250 PER DAY PER VALVE.]

Section 6. That SMC 13.18.100 - Prohibitions, paragraph G, is hereby repealed:

- [G. FIRE HYDRANTS MAY ONLY BE OPERATED BY EMERGENCY RESPONSE PERSONNEL (FIRE FIGHTERS) OR THE CITY UTILITY DEPARTMENT. ONLY UTILITY DEPARTMENT PERSONNEL SHALL BE ALLOWED TO OPERATE VALVES OR CURB STOPS (KEY BOX).]

Section 7. That SMC 13.18.120 - Fees and fines, is hereby amended as follows:

13.18.120 - Fees [AND FINES].

The following fees are hereby established:

Permit fee	\$100 (includes initial inspection and one re-inspection)
After hours inspection fees	\$120 with two-hour call out plus \$60 per hour after initial two-hour call out
Re-inspection fee	\$120 with two-hour call out plus \$60 per hour after initial two-hour call out

[THE FOLLOWING FINES PLUS ANY SURCHARGE REQUIRED TO BE IMPOSED BY AS 12.55.039 ARE HEREBY ESTABLISHED:

UNAUTHORIZED USE OF FIRE HYDRANT UP TO \$250 PER DAY PER EACH FIRE HYDRANT USE.

UNAUTHORIZED OPERATION OF WATER VALVES UP TO \$250 PER DAY PER VALVE.]

Section 8. That SMC 15.08.010 - Administration, paragraph D – Permits, subparagraph 1 is hereby amended as follows:

1. Permit Required. No sign shall be installed or altered without a sign permit unless exempt under Section 15.08.030([B]D) of this chapter.

Section 9. That SMC 15.08.010 - Administration, paragraph D – Permits, is hereby amended to include a new subparagraph 5, to read as follows:

5. Compliance with all applicable requirements of this chapter shall be a condition of all permits issued pursuant to this code.

Section 10. That SMC 15.08.010 - Administration, paragraph H – Enforcement, is hereby repealed and reenacted to read as follows:

H. Enforcement.

1. Authority. The building official is hereby authorized and directed to enforce all the provisions of this code. For such purposes he shall have the powers of a law enforcement officer.
2. Right of Entry. When it is necessary to make an inspection to enforce the provisions of this code, or when the building official has reasonable cause to believe that there exists in a building or upon a premises, a condition contrary to, or in violation of, this code that makes the building or premises unsafe, dangerous, or hazardous, the building official may enter the building or premises at reasonable times to inspect or to perform the duties imposed by this code, provided that if such building or premises be occupied that credentials be presented to the occupant and entry requested. If such building or premises are unoccupied, the building official shall first make a reasonable effort to locate the owner or other person having charge or control of the building or premises and request entry. If entry is refused, the building official shall have recourse to remedies provided by law to secure entry.
3. Stop Orders. Whenever any work is being done contrary to the provisions of this code, or other pertinent laws or ordinances implemented through the enforcement of this code, the building official may order the work stopped by notice in writing served on any persons engaged in the doing or causing such work to be done, and any such persons shall forthwith stop such work until authorized by the building official to proceed with the work.
4. Board of Appeals. To provide for reasonable interpretation of the provisions of this code there is hereby established a board of appeals as provided in the building code.
5. Permit Violations. For any sign for which a permit has been issued under this code, it shall be unlawful for any person to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use or maintain any sign or sign structure, or cause or permit the same to be done, contrary to or in violation of any requirement or condition the permit.
6. Signs not Authorized Under this Code. A sign not authorized under this code is determined to be a public nuisance. A sign for which a permit has been issued that does not conform to the permit shall be deemed a sign not authorized by this code. The following remedial provisions shall be in addition to all other remedies or penalties for violation of this code, which shall be cumulative and not exclusive.

- a. The building official may give notice by certified mail or personal service to the owner of the land on which the sign is located or, if known, to the person who erected the sign, ordering removal of the sign or bringing it into conformity with this code.
- b. If a person who receives a notice issued pursuant to this subsection fails to comply within thirty days, or within 24 hours in the case of a sandwich board sign or temporary sign, the building official may remove and store the sign at the expense of the owner of the land or of the person who erected the sign.
- c. Any sign disclaimed by an owner of the property on which it is situated or situated on public land may be removed without further notice or delay.
- d. If within 30 days a sign removed by the building official has not been reclaimed, it shall be presumed to have been abandoned and the administrative officer may declare it to be city property. The sign may be used or summarily disposed of without notice.

Section 11. That SMC 15.08.040 - Requirements based on type of sign, paragraph G - Temporary Signs, subparagraph 4 - Violations and Penalty, is hereby repealed:

[4. VIOLATIONS AND PENALTY.

- A. NOTICE TO REMOVE NON-COMPLIANT TEMPORARY SIGNS. THE ADMINISTRATIVE OFFICER SHALL NOTIFY IN WRITING THE OWNER, AGENT OR PERSON RESPONSIBLE FOR THE PLACEMENT OF A NON-COMPLIANT SIGN WHEN THAT OWNER, AGENT OR PERSON IS KNOWN, TO REMOVE IT WITHIN 24 HOURS. IF THE SIGN HAS NOT BEEN REMOVED AT THE EXPIRATION OF THE TIME STATED IN THE NOTICE, THE ADMINISTRATIVE OFFICER SHALL CAUSE IT TO BE REMOVED AND STORED AT THE EXPENSE OF THE OWNER.
- B. THE PLACEMENT OF A TEMPORARY SIGN IN VIOLATION OF THE STANDARDS OF THIS SECTION IS A MINOR OFFENSE AS DEFINED IN SMC 1.08.030, AND IS PUNISHABLE BY A FINE AS PROVIDED IN SMC 1.08.080. EACH AND EVERY DAY THAT THE VIOLATION CONTINUES SHALL BE DEEMED A SEPARATE AND DISTINCT VIOLATION. ALL REMEDIES AND PENALTIES PROVIDED FOR IN THIS CHAPTER SHALL BE CUMULATIVE AND NOT EXCLUSIVE.
- C. IF WITHIN 30 DAYS THE NON-COMPLIANT SIGN HAS NOT BEEN RECLAIMED, IT SHALL BE PRESUMED TO HAVE BEEN ABANDONED AND THE ADMINISTRATIVE OFFICER MAY DECLARE IT TO BE CITY PROPERTY, TO BE USED OR SUMMARILY DISPOSED OF WITHOUT NOTICE.]

Section 12. That SMC 15.08.040 - Requirements based on type of sign, paragraph I - Sandwich Board Signs, subparagraph 3 - Violations and Penalty, is hereby repealed:

[3. VIOLATIONS AND PENALTY.

- A. NOTICE TO REMOVE NON-COMPLIANT SIGNS. THE ADMINISTRATIVE OFFICER SHALL NOTIFY IN WRITING THE OWNER, AGENT OR PERSON RESPONSIBLE FOR THE PLACEMENT OF A NON-COMPLIANT SIGN WHEN THAT OWNER, AGENT OR PERSON IS KNOWN, TO REMOVE THE NON-COMPLIANT SIGN WITHIN 24 HOURS. IF THE SIGN HAS NOT BEEN REMOVED AT THE EXPIRATION OF THE TIME STATED IN THE NOTICE, THE ADMINISTRATIVE OFFICER SHALL CAUSE THE SIGN TO BE REMOVED, AND STORED AT THE EXPENSE OF THE OWNER.
- B. THE PLACEMENT OF A SANDWICH BOARD SIGN IN VIOLATION OF THE STANDARDS OF THIS SECTION IS A MINOR OFFENSE AS DEFINED IN SMC 1.08.030, AND IS PUNISHABLE BY A FINE AS PROVIDED IN SMC 1.08.080. EACH AND EVERY DAY THAT THE VIOLATION CONTINUES SHALL BE DEEMED A SEPARATE AND DISTINCT VIOLATION. ALL REMEDIES AND PENALTIES PROVIDED FOR IN THIS CHAPTER SHALL BE CUMULATIVE AND NOT EXCLUSIVE.

C. IF WITHIN 30 DAYS THE NON-COMPLIANT SIGN HAS NOT BEEN RECLAIMED, IT SHALL BE PRESUMED TO HAVE BEEN ABANDONED AND THE ADMINISTRATIVE OFFICER MAY DECLARE IT TO BE CITY PROPERTY. THE SIGN MAY BE USED OR SUMMARILY DISPOSED OF WITHOUT NOTICE.]

Section 13. That SMC 17.10.230 - Rural Residential District (RR), is hereby amended to include a new paragraph F, to read as follows:

F. Violations. Within the Rural Residential District, no person may cause any building or structure or part thereof to be erected, altered or maintained, and no new use or alteration of use be made or maintained on or in any building, structure or land except in conformity with the provisions of this section or Section 17.10.325.

Section 14. That SMC 17.10.235 - Single-Family Residential District (SF), is hereby amended to include a new paragraph F, to read as follows:

F. Violations. Within the Single-Family Residential District, no person may cause any building or structure or part thereof to be erected, altered or maintained, and no new use or alteration of use be made or maintained on or in any building, structure or land except in conformity with the provisions of this section or Section 17.10.325.

Section 15. That SMC 17.10.240 - Single-Family/Two-Family Residential District (SF/TF), is hereby amended to include a new paragraph F, to read as follows:

F. Violations. Within the Single-Family/Two-Family Residential District, no person may cause any building or structure or part thereof to be erected, altered or maintained, and no new use or alteration of use be made or maintained on or in any building, structure or land except in conformity with the provisions of this section or Section 17.10.325.

Section 16. That SMC 17.10.245 - Knight Court Area Meriting Special Attention (AMSA), is hereby amended to include a new paragraph F, to read as follows:

F. Violations. Within the Knight Court AMSA district, it shall be unlawful to cause any building or structure or part thereof to be erected, altered or maintained, or new use or alteration of use be made or maintained on or in any building, structure or land except in conformity with the provisions of this section or Section 17.10.325.

Section 17. That SMC 17.10.250 - Multi-Family Residential District (MF), is hereby amended to include a new paragraph F, to read as follows:

F. Violations. Within the Multi-Family Residential District, it shall be unlawful to cause any building or structure or part thereof to be erected, altered or maintained, or new use or alteration of use be made or maintained on or in any building, structure or land except in conformity with the provisions of this section or Section 17.10.325.

Section 18. That SMC 17.10.260 - Limited Commercial District (LC), is hereby amended to include a new paragraph F, to read as follows:

F. Violations. Within the Limited Commercial District, it shall be unlawful to cause any building or structure or part thereof to be erected, altered or maintained, or new use or alteration of use be made or maintained on or in any building, structure or land except in conformity with the provisions of this section or Section 17.10.325.

Section 19. That SMC 17.10.265 - Commercial District (C), is hereby amended to include a new paragraph G, to read as follows:

G. Violations. Within the Commercial District, it shall be unlawful to cause any building or structure or part thereof to be erected, altered or maintained, or new use or alteration of use be made or maintained on or in any building, structure or land except in conformity with the provisions of this section or Section 17.10.325.

Section 20. That SMC 17.10.270 - Parks and Recreational District (PR), is hereby amended to include a new paragraph F, to read as follows:

F. Violations. Within the Parks and Recreational District, it shall be unlawful to cause any building or structure or part thereof to be erected, altered or maintained, or new use or alteration of use be made or maintained on or in any building, structure or except in conformity with the provisions of this section or Section 17.10.325.

Section 21. That SMC 17.10.275 - Institutional District (INS), is hereby amended to include a new paragraph F, to read as follows:

F. Violations. Within the Institutional District, it shall be unlawful to cause any building or structure or part thereof to be erected, altered or maintained, or new use or alteration of use be made or maintained on or in any building, structure or land except in conformity with the provisions of this section or Section 17.10.325.

Section 22. That SMC 17.10.280 - Industrial District (IND), is hereby amended to include a new paragraph F, to read as follows:

F. Violations. Within the Industrial District, it shall be unlawful to cause any building or structure or part thereof to be erected, altered or maintained, or new use or alteration of use be made or maintained on or in any building, structure or land except in conformity with the provisions of this section or Section 17.10.325.

Section 23. That SMC 17.10.285 - Kenai River Overlay District (KROD), is hereby amended to include a new paragraph K, to read as follows:

K. Violations. Within the Kenai River Overlay District, it shall be unlawful to cause any building or structure or part thereof to be erected, altered or maintained, or new use or alteration of use be made or maintained on or in any building, structure or except in conformity with the provisions of this section or Section 17.10.325.

Section 24. That SMC 17.10.290 - Townhouse development, is hereby amended to include a new paragraph G, to read as follows:

G. Violations. It shall be unlawful to construct or maintain a townhouse development except in conformity with the provisions of this section or Section 17.10.325.

Section 25. That SMC 17.10.305 - Accessory uses, is hereby amended to include a new paragraph G, to read as follows:

G. Violations. It shall be unlawful to construct or maintain an accessory use and associated structure except in conformity with the provisions of this section or Section 17.10.325.

Section 26. That SMC 17.10.310 - Garage sales, is hereby amended as follows:

17.10.310 - Garage sales.

A.[1)] Intent. It is the intent of this section to permit garage sales in residential districts while providing standards to protect adjoining neighborhoods from potential adverse impacts from such sales.

B.[2]] Special Definitions. "Garage Sale" means any sales activity for the purpose of disposing of personal property items. The term "Garage Sales" shall include other activities known as "moving sales", "rummage sales", "yard sales", and similar sales activities not otherwise regulated as a conforming home occupation under this code.

C.[3]] General Standards. Garage sales are allowed in all residential zoning districts without approval as a conditional use provided they meet all of the following standards:

1)[a.] Be clearly subordinate to the main use of the dwelling for residential purposes and not change the residential character of the dwelling or the lot in any appreciable manner;

2)[b.] Be of a temporary nature not to exceed four (4) sales per calendar year with a maximum of twelve (12) sale days per calendar year. Conduct of sale during any portion of a calendar day shall count as an entire day toward the limit set under this section;

3)[c.] Not cause unsightly conditions or waste visible from off the property; and

4)[d.] Be advertised by signs placed only on private property with the property owner's permission. Signs shall be clearly marked with the proprietor's name, address, phone number and the date(s) of sale. Signs shall be posted no more than one (1) day prior to the sale and shall be removed no more than one (1) day following the sale. Non-complying signs may be confiscated [AND THE OWNER PENALIZED AS PROVIDED UNDER SECTION 17.10.450, VIOLATIONS].

D. It shall be unlawful to conduct a garage sale unless in conformity with the provisions of this section.

Section 27. That SMC 17.10.315 - Home occupations, paragraph F, is hereby amended as follows:

F. Violation [AND PENALTY]. Operating a home occupation in violation of the standards of this chapter is [A MINOR OFFENSE AS DEFINED IN SMC SECTION 1.08.030] unlawful.

Section 28. That SMC 17.10.380 - Mobile vending units, paragraph H, is hereby amended as follows:

H. Violations [AND PENALTY]. The following actions are unlawful [AND CONSIDERED A MINOR OFFENSE AS DEFINED IN SMC 1.08.030].

1. Operating a mobile vending unit without obtaining a valid city mobile vending unit permit;

2. Operating a mobile vending unit in violation of any of the general standards set forth in Subsection E of this section;

3. Selling or attempting to sell food and/or beverage, merchandise or other services on foot or from a motor vehicle, trailer, tent or other temporary facility that does not qualify as a mobile vending unit[.];

4. Operating a mobile vending unit in a location prohibited in Subsection C of this section.

[THE OWNER, AGENT, OR CONTRACTOR OF A MOBILE VENDING UNIT WHERE A VIOLATION HAS BEEN COMMITTED OR EXISTS, SHALL BE PUNISHED BY A FINE AS PROVIDED IN SMC 1.08.080 , OR IF NO FINE IS THERE ESTABLISHED, OF NOT MORE THAN \$500.00. EACH AND EVERY DAY THAT THE VIOLATION CONTINUES SHALL BE DEEMED A SEPARATE AND DISTINCT VIOLATION. ALL REMEDIES AND PENALTIES PROVIDED FOR IN THIS CHAPTER SHALL BE CUMULATIVE AND NOT EXCLUSIVE.]

Section 29. That SMC 17.10.385 - Short-term rental units, paragraph C - Non-Owner-Occupied Short-Term Rental Units, subparagraph (2) - Permit Required, subsection (g), is hereby repealed:

[G. VIOLATIONS AND PENALTY.

- I. THE FOLLOWING ACTIONS ARE UNLAWFUL AND CONSIDERED A MINOR OFFENSE AS DEFINED IN SMC SECTION 1.08.030:
 1. OPERATING A NON-OWNER-OCCUPIED SHORT-TERM RENTAL UNIT WITHOUT OBTAINING A VALID CITY PERMIT;
 2. OPERATING A SHORT-TERM RENTAL UNIT UNDER A VALID PERMIT BUT IN VIOLATION OF THE GENERAL STANDARDS IN SUBSECTION SMC SECTION 17.10.385(C)(2)(B).
- II. THE OWNER OF A SHORT-TERM RENTAL UNIT WHERE A VIOLATION HAS BEEN COMMITTED OR EXISTS SHALL BE PUNISHED BY A FINE AS PROVIDED IN SMC SECTION 1.08.080 , OR IF NO FINE IS THERE ESTABLISHED, OF NOT MORE THAN \$500. EACH AND EVERY DAY THAT THE VIOLATION CONTINUES SHALL BE DEEMED A SEPARATE AND DISTINCT VIOLATION. ALL REMEDIES AND PENALTIES PROVIDED FOR IN THIS CHAPTER SHALL BE CUMULATIVE AND NOT EXCLUSIVE.]

Section 30. That SMC 17.10.385 - Short-term rental units, is hereby amended to include a new paragraph D, to read as follows:

D. Violations. The following actions are unlawful:

1. Operating a non-owner-occupied short-term rental unit without obtaining a valid city permit;
2. Operating a short-term rental unit under a valid permit but in violation of the general standards in subsection SMC Section 17.10.385(C)(2)(b).

Section 31. That SMC 17.10.430 - Administrative appeals, is hereby amended to include a new paragraph H, to read as follows:

H. Exemptions. This section shall not apply to the issuance of a minor offense citation for a violation of this chapter.

Section 32. That SMC 17.10.450 - Violations, is hereby amended as follows:

17.10.450 - Violations.

- A. Procedures. When [A VIOLATION OF THE ZONING CODE,] an unauthorized deviation from a Zoning Permit, Site Plan, or any other approval under the zoning code is discovered, the following procedures shall be followed:
 - 1) Notification —The Administrative Officer shall notify in writing via certified mail, hand-delivery, or by notice posted at the site of the violation, the person responsible for such violation. The notice shall specify the nature of the violation and order abatement within a reasonable period of time, to be no longer than 30 days. The Administrative Officer shall order discontinuance of illegal uses of land, buildings or structures, removal of illegal buildings or structures, or of additions, alterations or structural changes thereto or discontinuance of any illegal work being done, or shall take any other action authorized by this and other sections of the zoning code, including the revocation of any permits or other approvals granted by the Administrative Officer or Commission, to ensure compliance with or to prevent violations of its provisions.
 - 2) Commission Notified — All such actions taken by the Administrative Officer shall be made known to the Commission at its next regular meeting.
 - 3) Council Action —If a violation is not corrected within the stated period, the Administrative Officer shall notify the City Council and the Council shall decide whether the City Attorney will initiate action to abate the violation; provided, however, that the Administrative Officer may issue a minor offense citation without notification to Council and without Council action.

- B. [PENALTIES] Responsibility for Violation. For each and every violation of any of the provisions of the zoning code, a Zoning Permit, Site Plan, or any other approval under the zoning code, the owner, agent, or contractor of a building or premises where such violations have been committed or shall exist, or any other person who maintains any building or premises in which any violation exists, shall be liable for the violation [SUBJECT TO A CIVIL PENALTY IN AN AMOUNT UP TO \$1,000. EACH AND EVERY DAY THAT SUCH VIOLATION CONTINUES SHALL BE DEEMED A SEPARATE AND DISTINCT VIOLATION. ALL REMEDIES AND PENALTIES PROVIDED FOR IN THIS SECTION OR CODE SHALL BE CUMULATIVE AND NOT EXCLUSIVE].
- C. Abating Violation Following Notice. Unless a timely appeal is pending, a person receiving a notice of violation issued under A.1. of this section shall abate the violation identified in the notice within the period of time provided in the notice of violation.

Section 33. This ordinance shall become effective immediately upon its enactment.

ENACTED BY THE CITY COUNCIL THIS 11TH DAY OF MAY, 2022.

Paul J. Whitney, Mayor

ATTEST:

Brekke Hewitt, CMC, Interim City Clerk

Yes:
No:
Absent:



SOLDOTNA

Economic Development + Planning

MEMORANDUM

TO: MAYOR WHITNEY AND CITY COUNCIL MEMBERS
THROUGH: STEPHANIE QUEEN, CITY MANAGER
FROM: JOHN CZARNEZKI, DIRECTOR OF ED+P
DATE: APRIL 19, 2022
SUBJECT: ORDINANCE AMENDING SOLDOTNA MUNICIPAL CODE RELATED TO THE MINOR OFFENSE FINE SCHEDULE, SMC 1.08.080

Ordinance 2022-013, includes the repeal and replacement of the minor offense table and changes to related code sections. It also consolidates individual fine schedules that had previously been scattered throughout the code into the single table in Soldotna Municipal Code (SMC) 1.08. This ordinance preserves and improves our ability to cure the more common code infractions with a citation, rather than a civil suit.

There have been a few minor amendments to SMC 1.08 in the past. These piecemeal changes were adopted as older code sections were routinely updated. This ordinance is comprehensive in nature and touches sections of code administered by many City departments to include Public Works, SPD, Parks & Recreation, ED+P, and Utilities. Staff from those departments reviewed their sections of code and identified omissions and updates necessary to successfully administer their programs. City Attorney Charles Cacciola then worked with City staff to develop the ordinance before you.

The proposed changes should result in a savings of staff time and resources. There have been repeated instances where staff has spent a large amount of time issuing repeated warnings and notices of violations with little result. The ability to issue a citation for a minor infraction should encourage prompt compliance with municipal laws.

Some examples of common offenses that were not listed in the minor offense table and that are now included:

- Dust control violations
- Illegal off-road vehicle use
- Camping more than 30 days
- Failure to obtain a city permit
- Sign code violations
- Prohibited farm animals
- Violation of animal standards in a campground

The offenses in the updated fine schedule (1.08.080) must possess the authority to be enforced via a citation. To accomplish this, each offense is linked to their corresponding sections of municipal code, hence the multiple sections in the attached ordinance. These changes provide that authorization and make it clear that uses and structures must be in conformance with the provisions of the code.

To assist in the understanding of all of the modifications, City Attorney Cacciola has provided the attached memorandum and sectional analysis. Upon approval, the uniform minor offense table will be filed with the Court.

We respectfully seek the Council's approval of the attached Ordinance.

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MEMORANDUM

TO: Stephanie Queen, City Manager
John Czarnetzki, Director of Economic Development & Planning

FROM: Charles A. Cacciola

DATE: March 21, 2022

RE: Minor Offense Revision Ordinance

This ordinance revises the minor offense fine schedule and minor-offense related provisions throughout the code to facilitate code enforcement through the minor offense procedure. Amendments to code sections other than the minor offense schedule are generally intended to clarify how a violation of code requirements is cited. Redundant violation provisions are removed. Other enforcement-related clarifying amendments are included as well. A section-by-section explanation is set forth below. A brief overview of the minor offense procedure precedes the section-by-section explanation to provide context for the ordinance.

Minor Offense Overview. Minor offense citations and proceedings are governed by the Alaska Rules of Minor Offense Procedure adopted by the Alaska Supreme Court. The rules are intended to secure simplicity in procedure, fairness in administration, and the elimination of unjustifiable expense and delay in adjudication of low-level violations. The rules evolved out of traffic tickets, which remain the most common minor offense citations. However, violation of any municipal ordinance that cannot result in incarceration or a fine greater than \$1,000 is a minor offense.

The minor offense fine schedule in Section 1.08.080 serves a special role in the minor offense procedure. Contrary to appearance, the fine schedule does not establish minor offenses. As noted above, any ordinance that sets a mandatory requirement results in a minor offense if the

fine for violation is less than \$1,000. Strictly speaking, all the fine schedule does is establish the fine amount for violations of specific ordinances. What is important is the procedural consequences of establishing these fine amounts.

Citations issued for violations with a fine amount set in a fine schedule can be paid without needing to go to court. On the other hand, if the cited violation does not have a fine set by a schedule, both the cited person and a municipal official *must* go to court.¹ For the majority of minor offenses, the defendant does not contest the allegation. Without a fine for the offense set in a schedule, the court system must set a hearing and a municipal official must appear even if only for the defendant to plead guilty/no contest or have a default judgment entered for the defendant's failure to appear. In most circumstances, requiring the court to set a hearing and for a municipal official to appear is not a good use of the public resources and, in our opinion, an unreasonable burden to place on a defendant who prefers to pay the fine. For most minor offenses, the municipality, the court system, and the defendant are best served by giving the defendant the option to pay the fine without going to court.

With a fine listed in the fine schedule, the person cited still has the right to have a judge decide the case. But the person also has the option to simply pay the fine (through the court system's website or in person at the courthouse) at the person's convenience. Given that option, many (perhaps most) take it, reducing the burdens on the municipality, court system, and the defendant. Thus, except when mandatory court appearance is desirable for policy reasons,² the best practice is for any minor offense for which a citation may be issued to be listed in the table.

Section 1. The amendment to Subsection 1.08.030(B) establishes that the fines applicable when the city initiates a civil suit (not a minor offense citation) to enforce the municipal code are the same amount as the minor offense fine for the same violation.

Section 2. Given the extensive changes to 1.08.080, the section is repealed and

¹ *Should* may be more accurate. If the defendant fails to appear in court, a default judgment is entered against the defendant. If no city official appears to prosecute the citation, the court will dismiss it.

² Our experience is that mandatory appearance is associated offenses committed by young people. For the latter, the belief is appearing before a judge is more likely to reform conduct than paying a small fine (which the person may not have money to pay). In any case, deliberately requiring mandatory appearance is uncommon.

reenacted. Numerous offenses have been added to the schedule. Others have been removed because they have been “condensed” into a smaller number of scheduled offenses. Certain fine amounts have been updated as well.

Section 3. Subsection A of 8.20.060 is amended to specifically identify failure to prohibit smoking. Failure to post no smoking signs is already a separate violation (Section 8.20.040), so this change provides greater clarity for the issuance of citations and what conduct is charged as unlawful. Subsections C and D are deleted because they duplicate Section 1.08.030.

Section 4. Subsection 13.08.080(B) duplicates Section 1.08.030 and is therefore recommended for deletion.

Section 5. The language recommended for deletion is unnecessary because the fine amount is stated in the minor offense fine schedule in Section 1.08.080.

Section 6. Subsection 13.18.100(G)³ is recommended for deletion because it duplicates Section 13.10.110.

Section 7. The language recommended for deletion is unnecessary because the fine amount is stated in the minor offense fine schedule in Section 1.08.080.

Section 8. This amendment corrects an incorrect code reference.

Section 9. This amendment is one of several amendments intended to streamline enforcement of the sign code. The sign code has many, detailed requirements and standards for signs. The overall goal in the revisions to the sign code is to maintain the existing standards but simplify enforcement by establishing two minor offense violations arising out of the sign code: (i) *failing to obtain a sign permit when required*, and (ii) *violating conditions of a sign permit*. The purpose of this amendment is to establish as a matter of ordinance that all sign permits contain as a condition of the permit that the permittee must comply with the applicable standards of the sign code. Ideally, the permit document itself says the same. This provision serves as backstop in case that language is omitted from a sign permit or the permit cannot be readily

³ Subsection 13.18.100(G) reads:

G. Fire hydrants may only be operated by emergency response personnel (fire fighters) or the city utility department. Only utility department personnel shall be allowed to operate valves or curb stops (key box).

produced.

Section 10.⁴ This amendment serves two major purposes. First, subpart (H)(5) declares unlawful (and thus makes a minor offense of) having a permitted sign that does not conform to the requirements of the permit. This is how the many detailed standards of the sign code are reduced to two citable violations identified above. A written warning that a sign does not conform to the code is not required before issuing a minor offense citation.

Second, given the nature of sign code violations, Chapter 15.08 provides enforcement remedies in addition to minor offense citations and civil litigation. The current Chapter 15.08 scatters these provisions across numerous subsections (including subsections 15.08.040(G)(4) and 15.08.040(I)(3), which, as explained below, should be deleted). The proposed change would consolidate all of these provisions into subsection (H)(6). Unlike enforcement as a minor offense under (H)(5), remedial enforcement under (H)(6) requires that the city first give written notice, and an opportunity to cure, to the landowner or person who erected the sign. Notice is required in this context because enforcement includes the city entering into the property and removing the sign at the owner's expense if the person does not remove the sign following notice. These actions are more intrusive than the relatively modest (\$100) fines for minor offense citations. Accordingly, the owner is entitled to notice and a reasonable opportunity to fix the violation before the city takes these more intrusive remedial actions.

Sections 11. Subsection 15.08.040(G)(4) sets forth violation and enforcement provisions that are specific to temporary signs only.⁵ It is recommended for deletion because it's

⁴ Chapter 15.08, the sign code, uses the terms "building official" and "administrative officer" interchangeably. Use of two different terms does not affect enforceability, only clarity. We discussed the issue with Mr. Czarnezski and concluded that cleaning up this language is not minor-offense related and therefore beyond the scope of this already lengthy ordinance. The issue is flagged for correction when Chapter 15.08 is next amended.

⁵ Subsection 15.08.040(G)(4) reads:

4. Violations and Penalty.

a. Notice to remove non-compliant temporary signs. The administrative officer shall notify in writing the owner, agent or person responsible for the placement of a non-compliant sign when that owner, agent or person is known, to remove it within 24 hours. If the sign has not been removed at the expiration of the time stated in the notice, the administrative officer shall cause it to be removed and stored at the expense of the owner.

largely duplicative of the current 15.08.010(H). The primary distinguishing feature of 15.08.040(G)(4) – allowing the building official to remove illegal *temporary* signs 24 hours after notice rather than 30 days for other signs – has been incorporated into the recommended 15.08.010(H).

Section 12. Subsection 15.08.040(I)(3) sets forth violation and enforcement provisions that are specific to sandwich board signs only.⁶ As with the previous section, this is recommended for deletion because it's largely duplicative of the current 15.08.010(H).

Sections 13 - 26. Each of Section 13 through Section 26 adds a subsection to zoning code sections that regulate a zoning district or type of development. The new subsection for each declares it unlawful to conduct development or activity except in conformity with the regulations set forth in the respective section. The purpose is to make clear that a use or activity that does not conform to the regulations for that zoning district or development activity can be cited as a minor

b. The placement of a temporary sign in violation of the standards of this section is a minor offense as defined in SMC 1.08.030, and is punishable by a fine as provided in SMC 1.08.080. Each and every day that the violation continues shall be deemed a separate and distinct violation. All remedies and penalties provided for in this chapter shall be cumulative and not exclusive.

c. If within 30 days the non-compliant sign has not been reclaimed, it shall be presumed to have been abandoned and the administrative officer may declare it to be city property, to be used or summarily disposed of without notice.

⁶ Subsection 15.08.040(I)(3) reads:

3. Violations and Penalty.

a. Notice to remove non-compliant signs. The administrative officer shall notify in writing the owner, agent or person responsible for the placement of a non-compliant sign when that owner, agent or person is known, to remove the non-compliant sign within 24 hours. If the sign has not been removed at the expiration of the time stated in the notice, the administrative officer shall cause the sign to be removed, and stored at the expense of the owner.

b. The placement of a sandwich board sign in violation of the standards of this section is a minor offense as defined in SMC 1.08.030, and is punishable by a fine as provided in SMC 1.08.080. Each and every day that the violation continues shall be deemed a separate and distinct violation. All remedies and penalties provided for in this chapter shall be cumulative and not exclusive.

c. If within 30 days the non-compliant sign has not been reclaimed, it shall be presumed to have been abandoned and the administrative officer may declare it to be city property. The sign may be used or summarily disposed of without notice.

offense.

In theory, these amendments are *not* required because Section 17.10.115 states: “No building or structure or part thereof shall hereafter be erected, altered or maintained, and no new use or alteration of use shall be made or maintained on or in any building, structure or land except in conformity with the provisions of this zoning code.” Thus, any use or structure not in conformity with the zoning code could be cited as a violation of Section 17.10.115. Our view is that this approach, while theoretically possible, fails to give adequate notice to the cited person (and to a judge and sometimes city officials) of the conduct the city alleges is unlawful. For example, everything from too large of a shed as an accessory use, to a medical office in the Institutional District without a condition use permit, to more than five garage sales in a year would all be cited as a violation of Section 17.10.115. The citation for violation of 17.10.115 could describe the violation is having garage sales in a number exceeding that authorized by Section 17.10.315. At that point, however, it’s more concise to issue the citation for violation of Section 17.10.315, not for violation of Section 17.10.115 as a result of the standards set by Section 17.10.315.

On the other hand, making a distinct minor offense of each specific standard for each specific zoning district is unwieldy. Each zoning district would generate a half dozen or more individual offenses. The minor offense table in Section 1.08.080 would have more than 100 different offenses from the zoning code alone if each standard or requirement of each zoning code section were listed as a separate offense.

Balancing specificity and practicality where numerous, detailed standards are at issue, such as in the zoning code and sign code, is challenging. There is no definitively correct or incorrect approach. Our belief is that relying on Section 17.10.115 for all zoning code violations is not sufficiently specific. Establishing a separate scheduled offense for each development standard in each district is impractical. We believe this level of specificity is the best compromise.

Section 27. The deleted language essentially duplicates 1.08.030 and the State of Alaska Rules for Minor Offense Procedure.

Section 28. The deleted language effectively duplicates 1.08.030 and the State of

Alaska Rules for Minor Offense Procedure. The added language facilitates a minor offense citation for operating a mobile vending unit in an area where they are not allowed.

Sections 29 & 30. Together, these sections correct a code organizational error. The substantive text from Section 30 is currently a second-tier subpart of the Non-Owner-Occupied Short-Term Rental Units subsection of Section 17.10.385. These provisions should be their own subsection. Text from the existing 17.10.385(C)(2)(g)⁷ that duplicates 1.08.030 is deleted and the remaining text is moved to a new Subsection 17.10.385(D).

Section 31. The existing Section 17.10.430 establishes an administrative appeal procedure for planning and zoning actions and determinations. The amendment clarifies that the administrative appeal procedure does not apply to a minor offense citation. The purpose of the minor offense procedure is to provide a simple and efficient mechanism for adjudicating low-level violations. It's more efficient than the administrative appeal procedure, which is intended for more significant matters. Administrative appeal of the issuance of a minor offense citation would frustrate the intent of both procedures.

Section 32. The purpose of the amendments to Section 17.40.450 is to facilitate enforcement of Zoning Permit and Site Plan conditions through the minor offense procedure *in addition* to the option of the administrative enforcement and appeal procedure. Zoning Permit and Site Plan conditions include parking, paving (17.10.330), landscaping (17.10.335), and similar provisions that come into effect through the Zoning Permit and Site Plan process.

As explained for Sections 13-26, a major challenge of enforcing the zoning code through the minor offense procedure is that the code is predominantly detailed standards that apply in

⁷ Subsection 15.08.040(I)(3) reads:

g. Violations and Penalty.

i. The following actions are unlawful and considered a minor offense as defined in SMC Section 1.08.030 :1.Operating a non-owner-occupied short-term rental unit without obtaining a valid city permit;2.Operating a short-term rental unit under a valid permit but in violation of the general standards in subsection SMC Section 17.10.385(C)(2)(b).

ii. The owner of a short-term rental unit where a violation has been committed or exists shall be punished by a fine as provided in SMC Section 1.08.080, or if no fine is there established, of not more than \$500. Each and every day that the violation continues shall be deemed a separate and distinct violation. All remedies and penalties provided for in this chapter shall be cumulative and not exclusive.

certain circumstances. In the abstract, citing a person for a violation of 17.40.450 because the person did not, for example, provide one tree per 150 square feet of total parking landscaping, would be unreasonably vague and not give the person sufficient notice of unlawful conduct. Moreover, the details of the relevant standards are such that violations occur despite reasonable effort to adhere to the standards.

Thus, under the proposed amendment, a person would not be cited for failing to provide one tree per 150 square feet of total parking landscaping nor, strictly speaking, for violating a Zoning Permit or Site Plan condition. Rather, the citation would be for failing to fix the violation after receiving written notice of the violation.

The first step is for the administrative officer to give written notice of the violation under 17.10.450(A)(1), specifying the nature of the violation and provide the person a reasonable period of time to correct the violation. If the person fails to timely correct the violation, then a citation for violation of 17.10.450(C) — failure to abate violation following written notice — is issued. This approach provides an opportunity for persons to correct what are often inadvertent violations while also eliminating the need for dozens of different offenses for site development standards and still ensuring that the person (and court) has clear notice and understanding of the conduct resulting in the citation.